



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,739	10/22/2001	Gil Mueller	450117-03591	5444

20999 7590 07/13/2005

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

TAYLOR, NICHOLAS R

ART UNIT PAPER NUMBER

2141

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/016,739

Applicant(s)

MUELLER ET AL.

Examiner

Nicholas R. Taylor

Art Unit

2141

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-15 have been presented for examination and are rejected.

Response to Arguments

2. Applicant's arguments filed 4/25/05 have been fully considered but they are deemed not persuasive.

3. In the remarks, applicant argued in substance that:

(A) Prior art of Bennet does not teach a negotiation process, but instead an instruction process.

As to point (A), the prior art of Bennet teaches a negotiation process by a server wherein a resource demanding client makes a request, the server negotiates the correct action necessary to satisfy that request, and carries out a response (Bennet, column 7, lines 4-46.) Furthermore, any negotiation process could be considered an instruction process as all negotiations can be represented as a series of instructions (e.g. request, decision, response.)

(B) Prior art of Bennet does not teach relationship information, as the claim refers to "pointing information" from the specification specifying how much of the resources allocated by a resource using client is needed by an operation.

Art Unit: 2141

As to point (B), in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., pointing information specifying resources needed by an operation) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Bennett (US Patent 5,734,909.)

6. As per claim 1, Bennett teaches a centralized method for resolving resource conflicts occurring when shareable resources which are at least partially allocated by at least one resource using client are requested by a resource demanding client (column 7, lines 4-6),

wherein, in order to resolve resource conflicts, a negotiation process with said at least one resource using client and said resource demanding client about future rights

Art Unit: 2141

of allocating said requested shareable resources is performed, and (column 7, lines 7-46)

wherein said negotiation process is based upon a process of tracking and/or storing relationship information between said shareable resources allocated by said resource using client and client operations of said resource using client using said allocated shareable resources (column 7, lines 10-15.)

7. As per claim 3, Bennett teaches the system further characterized in that said negotiating process is based upon a determining process of a client status of said resource using client (column 7, lines 23-33, wherein the resource using client sends its status to the server as ready to release the resource.)

8. As per claim 12, Bennett teaches the system further characterized in that said negotiating process, said step of determining said client status of said resource using client and said step of providing said shareable resources to said resource demanding client are coordinated by a central unit having access to said shareable resources (column 7, lines 4-6.)

9. As per claim 13, Bennett teaches a host providing shareable resources for performing specific client operations, which are assignable to resource using clients being connected to said host, respectively (column 7, lines 4-9), characterized by

Art Unit: 2141

an extracting means for extracting client status information of a resource using client,

processing means being connected to said extracting means for processing said extracted client status information,

providing means being connected to said extracting means and said processing means for providing said shareable resources to a resource demanding client and/or to a client operation assigned to said resource demanding client,

wherein said shareable resources providing process is initiatable or refusable by said processing means according to said extracted client status information (column 7, lines 10-15, and column 7, lines 22-45) and is also based upon tracking and/or storing relationship information between said shareable resources allocated by said resource using client and client operations of said resource using client using said allocated shareable resources (column 7, lines 10-15.)

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 4-11, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett (US Patent 5,734,909) and Togawa (US Patent 6,385,639.)

12. As per claim 4, Bennett teaches the system further characterized by a process being performed on the basis of said tracked and/or stored relationship information (Bennett, column 7, lines 10-15.) However, Bennett fails to teach the system further characterized by asking the resource using client or a user of said resource using client about releasing at least a part of its allocated shareable resources and/or about terminating said client operations using said allocated shareable resources to determine said client status of said resource using client.

Togawa teaches asking the resource using client or a user of said resource using client about releasing at least a part of its allocated shareable resources (Togawa, column 11, line 35 to column 12, line 14.) It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Bennett and Togawa to provide the resource requesting of Togawa in the system of Bennett, because doing so would improve the flexibility of resource management in completing work (Togawa, column 2, lines 25-30.)

13. As per claim 5, Bennett-Togawa teaches the system further characterized by refusing to provide shareable resources to said resource demanding client if said resource using client refuses to release its allocated shareable resources and/or if said resource using client refuses to terminate said client operations using said allocated shareable resources (Togawa, column 11, line 52 to column 12, line 14, wherein group A refuses group B.)

14. As per claim 6, Bennett-Togawa teaches the system further characterized by instructing said resource using client to release its allocated shareable resources and/or to terminate said client operations using said allocated shareable resources if said resource using client accepts to release its allocated shareable resources and/or if said resource using client accepts to terminate said client operations using said allocated shareable resources (Togawa, column 12, lines 39-50, and figures 25 and 26.)

15. As per claim 7, Bennett teaches the system above. However, Bennett fails to teach the system further characterized by asking said resource demanding client whether insisting on a shareable resources demand.

Togawa teaches asking said resource demanding client whether insisting on a shareable resources demand (Togawa, column 11, line 53 to column 12, line 14, wherein the client's request verification is repeated.) It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Bennett and Togawa to provide the resource requesting of Togawa in the system of Bennett, because doing so would improve the flexibility of resource management in completing work (Togawa, column 2, lines 25-30.)

16. As per claim 8, Bennett teaches the system above. However, Bennett fails to teach the system further characterized by acting according to a configurable default reaction mechanism if said resource using client refuses to participate said negotiating

Art Unit: 2141

process, refuses to act according to results of said negotiating process or is not capable of participating in said negotiating process.

Togawa teaches by a default reaction mechanism if said resource using client refuses to participate said negotiating process, refuses to act according to results of said negotiating process or is not capable of participating said negotiating process (Togawa, column 11, line 35 to column 12, line 14.) It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Bennett and Togawa to provide the resource requesting of Togawa in the system of Bennett, because doing so would improve the flexibility of resource management in completing work (Togawa, column 2, lines 25-30.)

17. As per claim 9, Bennett-Togawa teaches the system further characterized by preempting said resource using client from its allocated shareable resources as a default reaction mechanism (Togawa, column 12, lines 30-53.)

18. As per claim 10, Bennett-Togawa teaches the system further characterized by terminating said client operations using said allocated shareable resources as a default reaction mechanism (Togawa, column 12, lines 30-53.)

19. As per claim 11, Bennett-Togawa teaches the system further characterized by providing said deallocated shareable resources of said resource using client to said resource demanding client (Togawa, column 12, lines 30-53.)

20. As per claim 14, Bennett-Togawa teaches the system further characterized by providing said deallocated shareable resources of said resource using client to said resource demanding client (Togawa, column 12, lines 30-53.)

21. As per claim 15, Bennett-Togawa teaches the system further characterized by providing said deallocated shareable resources of said resource using client to said resource demanding client (Togawa, column 12, lines 30-53.)

Conclusion

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Art Unit: 2141

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Taylor whose telephone number is (571) 272-3889. The examiner can normally be reached on Monday-Friday, 8:00am to 5:30pm, with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas Taylor
Examiner
Art Unit 2141


RUPAL DHARIA
SUPERVISORY PATENT EXAMINER